HONOURABLE SHRI JUSTICE R.SUBHASH REDDY

WRIT PETITION No. 2118 OF 2006

Dated 20th July, 2006

Between:
R.Himabindu W/o M.S.Sukumar

…Petitioner

And

N.T.R. University of Health Sciences,
represented by its Registrar,
Vijayawada and others.

… Respondents.

ORDER:

The petitioner who was admitted to M.Sc. (Medical) Pharmacology in second respondent-college for the academic year 2004-05 filed this writ petition seeking directions by way of Mandamus to the first respondent to permit her to convert her branch in M.Sc. (Medical) Pharmacology to M.S. (Medical) Physiology.

The petitioner is a graduate in B.H.M.S. from Government Homeopathy College, Kadapa. The first respondent-University conducted entrance examinations for filling up the seats in M.Sc. (Medical) for the academic year 2004-05. As per the rules applicable, 50% of the seats were to be filled by the management and the rest of the seats were to be filled by the competent authority. The course is of three years. The petitioner applied for admission in management quota and she was selected in the said college in the branch of Medical Pharmacology and joined the course as early as on 28.9.2005. But, when the schedule of examinations for 1st year M.S.(Medical) was announced for the academic year 2004-05 from 13.2.2006 and when the 2nd respondent forwarded the application for approval, the competent authority had objected that having regard to the qualifications prescribed to M.Sc. Pharmacology, the petitioner is not eligible for such a course. As per the notification issued by the first respondent-University, eligibility is notified, which is as follows:

"5. **ELIGIBILITY:**

" Candidates for admission to M.Sc. (Medical) Courses should have passed in any of the following examinations of the University of Andhra Pradesh or any other University accepted by the Academic Senate

of this University as equivalent thereto and shall be permitted to appear for M.Sc. (Medical) Degree Courses Entrance Test of this University after a course study of three academic years in respect of non-medical degrees. In respect of Medical Degrees, the candidates should have completed the course including internship.

a) Qualifications:

i) MBBS/BDS

ii) BHMS/BAMS/BNYS/BUMS

iii) B.Sc. (Nursing)/BPT/B.Sc. (MLT)/B.Pharm.

iv) B.Sc. Degree with the following subjects as mains/ or ancillary Zoology, Botany, Chemistry, Microbiology and Biochemistry.

Note: BHMS/BAMS/BNYS/BUMS candidates cannot be Considered for M.Sc. Course in Pharmacology as The basic concept of therapy conflicts with Modern Medicine."

Though BHMS was the qualifying examination in general, but, there was a note that they are not qualified to M.Sc. course in Pharmacology on the ground that basic concept of therapy conflicts with modern medicine. When there was no approval of the admission of the petitioner in the second respondent-college, the college wrote to the first respondent-university to consider her candidature for conversion to M.Sc. Physiology course. But, however, the University has rejected vide proceedings dated 4.1.2006 passed in proceedings No.7176/EA2/2005 on the ground that there is no scope for transfer of such students.

It is submitted by Sri Prasad, learned counsel for the petitioner that as per the syllabus prescribed, both for M.Sc. Pharmacology and Physiology, the syllabus and examinations are common so far as the first year is concerned. When the petitioner was not allowed to write the examinations on the ground that her name was not approved and as it was stated that the examinations for the first year were same for all the courses, this court at the stage of admission granted interim orders to allow the petitioner to write Part-I examinations. It is stated that pursuant to such orders, the petitioner was allowed to write the first year examinations. It is submitted that

in the 2nd respondent-college, there is also M.Sc. Physiology and there is also a vacancy in the same academic year. In that view of the matter, the first respondent ought not to have rejected the request of the petitioner to convert the seat from Medical Pharmacology to Physiology when the syllabus and examinations are common for first year and when vacancy (within the permissible intake capacity) is available in the very same college.

Counter affidavit has been filed on behalf of the respondent-University stating that the petitioner was not qualified to be admitted into M.Sc. Pharmacology and the very admission of the petitioner to Pharmacology is illegal.

When the matter has come up for hearing on the last occasion, learned Government Pleader was directed to get instructions to verify as to whether syllabus and examinations are common for the first year for Pharmacology and Physiology and also with regard to alleged vacant seat in Physiology in the second respondent-college. When the matter has come up today, it is submitted that the syllabus and examinations are common for the first year of all the courses. There is also no dispute as to the vacancy in the second respondent college in the course of M.Sc. (Medical) Physiology within the permitted intake capacity.

Normally, this court is slow in interfering with such matter, but, as far as the petitioner is concerned, there was no objection as to the qualifications for admission when she was admitted to the course and she joined as early as on 28.9.2005 and even completed one year and also wrote examinations of first year. It is not in dispute that the syllabus and examinations are common for the first year for both the courses, namely, Pharmacology and Physiology. When there is a vacant seat in M.Sc. (Medical) Physiology, for which the petitioner is qualified, there is no valid

reason to reject the representation sent by the petitioner through its college for conversion of the seat from M.Sc. (Medical) Pharmacology to M.Sc. (MedicaL) Physiology. In that view of the matter, I set aside the order dated 4.1.2006 passed in proceedings No.7176/EA2/2005 and direct the first respondent-University to consider the matter afresh taking into account that the examination pattern and syllabus are the same for the first year students of various specialties and also having regard to the vacancy position i n M.Sc. (Medical) Physiology course in the second respondent-college. The first respondent shall pass appropriate orders within a period of three weeks from the date of receipt of this order and communicate the same to the college and the petitioner. The result of the examinations of the first year of the petitioner shall also be announced based on the orders to be passed within the aforementioned period.

Subject to the above directions, the writ petition is disposed of. No costs.

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20.7.2006 **(R.SUBHASH REDDY, J.)**

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